

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY, PHARMACIA,)
LLC, and SOLUTIA, INC.,)
)
Plaintiffs,)
)
vs.)
)
MAGNETEK, INC. et al.,)
)
Defendants.)

Case No.: 4:23-cv-00204-HEA

**DEFENDANT KYOCERA AVX COMPONENTS CORPORATION’S
MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED PETITION**

Defendant Kyocera AVX Components Corporation (“KAVX”) by and through its undersigned counsel, respectfully submits this motion to dismiss Plaintiffs’ First Amended Petition in the above-captioned matter pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. As discussed further in the accompanying memorandum, all of Plaintiffs’ claims should be dismissed as to KAVX for lack of personal jurisdiction. Plaintiffs’ First Amended Petition does not assert claims against KAVX that fall within Missouri’s long-arm statute, nor do Plaintiffs plead that KAVX had sufficient minimum contacts with Missouri to satisfy due process. Additionally, any claims for settlements, judgments, or other payments made before August 3, 2017, are time-barred and should be dismissed.

Alternatively, Plaintiffs’ Count V, asserting negligence, should be dismissed as to KAVX for failure to state a claim. Plaintiffs fail to plead at least two of the four elements required to state a claim for negligence, and their claim is also barred by the economic loss doctrine.

WHEREFORE, KAVX respectfully requests that the Court enter an order dismissing this action with prejudice with respect to KAVX, pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6) and

granting such other and further relief as the Court deems just and proper under the circumstances of this case.

Dated: May 1, 2023

Respectfully submitted,

/s/ David B. Helms

David B. Helms #48941(MO)
GM LAW PC
8000 Maryland Avenue, Suite 1060
St. Louis, MO 63105
314-474-1750
Fax: (816) 471-2221
Email: Davidh@gmlawpc.com

Benjamin D. Mooneyham #65341(MO)
GM LAW PC
1201 Walnut Street, Suite 2000
Kansas City, MO 64106
(816) 471-7700
Fax: (816) 471-2221
Email: benm@gmlawpc.com

LisaMarie Collins (*pro hac vice*)
Kaitlyn A. Crowe (*pro hac vice*)
Nicholas A. Butto (*pro hac vice*)
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
919 Third Avenue
New York, NY 10022
(212) 935-3000
Fax: (212) 983-3115
Email: LCollins@mintz.com
Email: KACrowe@mintz.com
Email: NAButto@mintz.com

Attorneys for Kyocera AVX Components Corp.

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel and parties of record who have appeared.

/s/ David B. Helms

David B. Helms